case of the appellants who were affected by the evidence of either of the alleged accomplices Chong Sek Ling and Quek Hai Cheng for the rule requiring corroboration in a material particular implicating the accused has never been extended as a virtual rule of law to the evidence of witnesses of the sort described in *Prater, supra.* And after all such witnesses do not necessarily suffer from one of the defects which is said to make accomplice evidence so extremely unreliable, that is that the accomplice is peculiarly equipped by reason of his inside knowledge of the crime to convince the unwary that his lies are the truth (see *Bereng Griffith Lerotholi* v. *The King* [19]).

In the present case that consideration did not apply. As far as the actual facts of the tumult went nobody had any special "inside knowledge"; everything was done in broad daylight for all to see. The evidence against each of the appellants has already been described and need not be recapitulated. To what has been said it is only necessary to add that the evidence of the alleged accomplice Chong Sek Ling only implicated eight of the appellants (Nos. 1, 2, 3, 5, 9, 10, 13 and 18), that the evidence of the alleged accomplice Quek Hai Cheng only implicated seven of them (Nos. 1, 7, 9, 10, 12, 15 and 18) and that in the case of each of the appellants with the exception of Cheng Poh Kheng (No. 18) there was at least one among the numerous witnesses who gave direct evidence against him who was a member of the ordinary prison staff or a civilian employee and of unblemished character. Even in the case of Cheng Poh Kheng in addition the evidence of Chong Sek Ling and Quek Hai Cheng there was the evidence of two other detainees, and it was not even suggested that either of them had any personal animus against him.

Having given our most anxious consideration to the case we are satisfied that there has been no miscarriage of justice, so far at any rate as the present appellants are concerned, by reason of any error in the direction as to corroboration.

Or, we would add, for any other reason.

The appeals are dismissed.

Appeals dismissed.

Solicitors: *David Marshall.*

YAP BOR LIM v. CHIA THYE POH & ANOR.

[O.C.J. (Winslow J.) May 7, 1965]

[Singapore — Suit No. 1590 of 1964]

Libel — Political campaign — Quantum of damages.

The defendants admitted publishing a libel on the plaintiff and submitted to the judgment of the court in regard to the question of damages and costs. It was argued for the defendants that the publication in question was made without malice, though hastily and on information from a reliable source and that in all the circumstances damages should be nominal. The plaintiff on the other hand claimed that the libel was made recklessly and with malice.

Held: the statement was published as part of a political campaign to discredit the political opponents of the defendants and it cannot be held therefore that nominal damages would suffice.

Damages were awarded in the sum of $5,000 to be reduced to $3,000 if a satisfactory apology was published.

CIVIL SUIT.

Chua Sian Chin for the plaintiff.

T. T. Rajah for the defendants.

Cur. Adv. Vult.

Winslow J.: The first defendant in this case who is and was, at the time of publication of the libel, the editor of the Chinese edition of the *Barisan,* the organ of the Barisan Sosialis, and the second defendant, the Barisan Sosialis, do not contest the issues of fact involved relating to the falsity of the libel and submit to the judgment of this court so far as concerns the quantum of damages, costs and any possible injunction to restrain repetition of the libel in question.

In August 1964 the first defendant published an article in the Chinese edition of the *Barisan* which has now turned out to be obviously libellous in that it was then based on incorrect and untrue information which he received from one Ng Seng Wah in whom he placed complete reliance. As a consequence he considered it unnecessary to check its veracity. The said Ng Seng Wah was then an undergraduate at Nanyang University who took an examination there at the same time as the plaintiff whom he reported to the first defendant as having sat the examination in the name of a female student. It was only in April 1965 that he realised, according to his evidence, that the information supplied to him by Ng Seng Wah was both incorrect and untrue.

In order to appreciate the gravity or otherwise of the first defendant's conduct in relation to this admitted libel, it is pertinent to refer to the conditions alleged to be prevailing within the precincts of Nanyang University prior to the publication of the libel.

This university is alleged to have been the seat of political manipulations on the part of its student population for some considerable time by both pro-communist and non-communist adherents. It is alleged that the pro-communists were at one time, through the Nanyang University Students' Union, attempting to direct the affairs of the university against the interests of the students. In 1964, it is alleged that the Nanyang University Students' Fellowship, with the plaintiff as chairman, was formed to counter

pro-communist activities at the university and it is alleged that this was a move to cut the communists down to size in their efforts to control Nanyang University.

It is, I think, well known that elements adverse to security interests for which the Government is responsible, have been and are and will be attempting, by any means they can muster, to cause as much distress, dissension and disaster within the State and within Malaysia as they can possibly achieve, without allowing themselves necessarily to be branded as enemies of the State or of the States of Malaya or of Malaysia. It is in the context of this perilous situation that one must weigh words uttered, expressed, written or otherwise published in 1964 which promote and provoke thoughts, ideas, ideologies and activities inimical to the maintenance of order, good government and public safety.

The first defendant says, in mitigation, that he did not discover the falsity of the information in reliance on which he published the libel, until a few days ago. Having heard both the plaintiff and the first defendant I find it extremely difficult to accept, without reservation, the latter's explanation of the circumstances in which he came to publish the libel in question. He graduated in 1961 and had left the varsity. He embraced politics and eventually became an assemblyman and a member of Parliament. The plaintiff only graduated at the end of 1964. In my opinion the first defendant was not prompted by any sincere or altruistic motives in publishing the article in his capacity as editor of the *Barisan*. His objective was clearly to discredit the political opponents of his party whoever they might be.

The plaintiff was the chairman of the University Students' Fellowship which posed a grave challenge to the Students' Union which the defendants supported. The informant, Ng Seng Wah, must necessarily have been one of their own aides and supporters and it sounds ill in the mouth of the first defendant to contend that the latter had been so reliable in his information in the past as to warrant implicit trust in his every utterance on subsequent occasions. The information he received in the form of the letter (Exhibit D1) written to him by Ng Seng Wah should have put him on his guard immediately as to the authenticity of its contents.

Ng Seng Wah was not a witness and he admitted in his letter (Exhibit D1) that he had read some, at least, of the writing on the plaintiff's examination answers. Ng Seng Wah's letter itself shows that his own conduct was highly irregular.

I do not think that the editor of any responsible paper would readily adopt and publish a statement of this kind as his own without any indication that it reflected only the views of an independent correspondent for whose views the paper accepted no responsibility. I reject the excuse put forward by the defence that the letter to the editor was not published as such owing to shortage of space in the *Barisan*.

In the circumstances I find that he failed to check the information he says he was given by Ng Seng Wah, as he could easily have done, and that he published the story recklessly with a view to advancing the cause of his own party without caring whether or not it was true, with consequent damage to the plaintiff's reputation and prospects at first within the university, and later in the field of employment after his graduation which was then imminent.

The plaintiff graduated, in fact, with credit in December, 1964 but has, with this libel hanging over his head, been unable to take that place in society, yet, as a graduate to which his talents probably entitle him. He claims that some colleagues who received lower marks than his own have already obtained employment and that he has not. Although I appreciate that there may be other reasons for his failure to succeed in his quest for employment so far, I am satisfied that this libel on his character and reliability has gravely prejudiced his prospects though not, perhaps, to the extent claimed by his counsel on his behalf. Fortunately, the case has come to trial at a fairly early date but he has had to live with this severe smudge, stain or smear on his escutcheon for more than eight months.

The defendants claim through their counsel, Mr. T. T. Rajah, that the publication in question was made without malice, though hastily and on the information of a reliable source, i.e. Ng Seng Wah, and that in all the circumstances, damages should be nominal. As against this, counsel for the plaintiff, Mr. S. C. Chua, claims that the libel was made recklessly and with malice and that the defendants have persisted in their defence of justification until the end of last month.

In my opinion the statement was published as part of a political campaign to discredit the political opponents of the defendants. One has only to read the article in question to note the degree of venom and hostility shown therein. In the course of their political attack, the plaintiff, as the leader of the Students' Fellowship which was opposed to them, was singled out as a ripe victim for character assassination. I cannot hold therefore, that nominal damages will suffice. The sum of $20,000 claimed on behalf of the plaintiff, however, appears excessive.

In all the circumstances I assess the damages payable for loss of reputation and wounded feelings in the sum of $5,000 which I

think should be adequate recompense. Judgment will be entered accordingly for the plaintiff with costs.

The defendants however have offered to make a public apology through the Press in the following terms:

"I, Chia Thye Poh, editor of the *Barisan*, a Chinese language publication of the Barisan Sosialis and the Barisan Sosialis Party of Singapore hereby inform the public that in a publication of the said organ in issue No. 83 of the said Barisan and dated the 26th day of August, 1964, a report on page four of the said issue contained certain statements with the heading 'Chairman of the Nanyang University Students' Fellowship took re-examination in English on other's behalf'. Among other things, it was also stated in the said organ that Yap Bor Lim, Chairman of the abovenamed Fellowship went on behalf of a female student into the hall and sat for a re-examination in English and so forth. The effect of the statements could have created an erroneous impression that Mr. Yap Bor Lim was a cheat and an imposter.

We are now convinced that the statements and imputations referred to and concerning Mr. Yap Bor Lim are wholly unfounded and we hereby withdraw them in toto. We tender our profound regrets and apologies to Mr. Yap Bor Lim for having published them and for any pain or annoyance that our untrue statements may have caused to him".

If an apology as aforesaid is published to the satisfaction of the Registrar in the earliest possible issue of each of the *Barisan*, the *Nanyang Siang Pau* and the *Sin Chew Jit Poh*, damages will then be reduced to $3,000. Costs will be on the higher scale in any event.

I do not think that this case calls, at this stage, for an injunction against repetition of the libel. If there should be any repetition it is obvious that damages will undoubtedly, in any future proceedings, be considerably enhanced.

Order accordingly.

Solicitors: *Lee & Lee; T. T. Rajah.*

THE CHARTERED BANK v. YEOH BOK HAN

[O.C.J. (Hepworth J.) May 21, 1965]

[Penang — Civil Suit No. 35 of 1964]

Banks and Banking — Cheques — Post dated — Crossing of with words "Credit a/c....." — Whether restrictive endorsement — Holder in due course — Bills of Exchange Ordinance, 1949, s. 35.

Bills of Exchange — Consideration — Failure of — Defence.

The bank claimed against the defendant as drawer of 5 cheques drawn by him on the Malayan Banking Ltd., Alor Star, for the sum of $2,000 each totalling $10,000, made payable to five firms respectively or to bearer. They claimed that they became the bearers of the said cheques which were duly presented by them on the due dates, but were dishonoured and returned with the words "payment stopped". They gave notice of dishonour and claimed that they were holders in due course of the said cheques having given value in good faith therefor to a rice mill from whom they received the said cheques.

In his defence the defendant said that those cheques were not cheques which had been given to the rice mill in payment for rice already delivered, but were given in payment for rice to be delivered and were only to be presented for payment after the delivery of the rice and accordingly it was fraudulent for the rice mill to negotiate the cheques prior to the delivery of the rice. He alleged that the bank knew that the cheques were only to be presented for payment if the rice was delivered or, if they did not know, they were negligent in not knowing and that accordingly the bank were not holders in due course. Further the defendant pleaded that the bank were only collecting agents on behalf of the rice mill because the words "Credit A/c Seng Heng Oil and Rice Mill" was a restrictive endorsement under section 35 of the Bills of Exchange Ordinance which prevented the further negotiation of the cheques.

Held: (1) the bank had no knowledge of any irregularity and were not negligent in having no such knowledge;

(2) the words "Credit A/c Seng Heng Oil and Rice Mill" did not constitute a restrictive endorsement under section 35 of the Bills of Exchange Ordinance but were a mere direction not to credit any other customer's account but the rice mill's account;

(3) a banker who is asked by a customer to collect a crossed cheque and who, pursuant to a contract express or implied, credits the customer forthwith with the amount of the cheque before that amount has been received becomes a holder in due course. The payment that he subsequently receives on the cheque is for himself and not for the customer. This position is not altered whether the amount of the cheque is drawn against or not by the customer subsequent to its crediting or the amount is utilised by the banker in reduction of an overdraft. The question must be whether there exists an agreement to give immediate credit before clearance. In this case the bank accepted post dated cheques and issued delivery orders in respect of those cheques by agreement between the bank and the rice mill and therefore they were holders in due course of the 5 cheques.

Cases referred to:—

(1) *National Bank* v. *Silke* [1891] 1 Q.B. 435.

(2) *Bank of China* v. *Synn Lee & Co. Ltd.* [1962] M.L.J. 91.

CIVIL SUIT.

Chin Yew Choe for the plaintiffs.

A. Jayadeva for the defendant.

Cur. Adv. Vult.

Hepworth J.: The plaintiffs are the Chartered Bank who have a place of business at 24, Bagan Luar Road, Butterworth, Province Wellesley, and the defendant is a business man residing at Batu 3½ Pengkalan Kundor, Alor Star, Kedah.

The plaintiffs claim against the defendant as the drawer of 5 cheques drawn by him on the Alor Star branch of the Malayan Banking Limited for the sum of $2,000 each, totalling $10,000 and bearing numbers 170361, 170362, 170363, 170364 and 170365, the first three of which are dated the 26th December, 1963, and the last two, the 28th December, 1963, and made payable to Chop Eng Seng, Chop Eng Huat Chan, Chop Seng Huat, Chop Thong Hin and Chop